

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
DANVILLE DIVISION

LEALON M. VASSAR, BRENDA N. )  
VASSAR, L. GREGORY VASSAR, )  
CHERYL F. VASSAR, JOHN C. KORN, )  
and MICHAEL J. KORN, )

Plaintiffs, )

v. )

DANIEL ROSS and JON HART, )

Defendants. )

Case No. 4:14-cv-00056

**ORDER**

By: Hon. Jackson L. Kiser  
Senior United States District Judge

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Before me is Defendants Daniel Ross and Jon Hart's Motion to Dismiss the Complaint, pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure ("the Motion"). The Motion was filed on April 6, 2015. [ECF No. 8.] For the reasons stated in the Memorandum Opinion filed herewith, the Motion is hereby **GRANTED IN PART** and **DENIED IN PART**. Specifically, Plaintiffs have stated a claim with respect to: the detention of the Korns (Compl. ¶ 34(d)); the search of the Korns's car, rifle, and hunting pouch (*id.* ¶ 34(e)); the violation of Va. Code Ann. § 19.2-59 (*id.* ¶¶ 37–39); and false imprisonment (*id.* ¶ 40–42). The motion is denied with respect to those claims.

Plaintiffs have failed to state a claim for the entering the Vassars's land (*id.* ¶ 34(a)), and for "spying on" and "ambushing" the Korns (*id.* ¶ 34(c)). Defendants are entitled to qualified immunity on the claim for destruction of the gate. (*Id.* ¶ 34(b).) The Vassars's claim for trespass and destruction of property (*id.* ¶¶ 33–35) will be dismissed for lack of jurisdiction pursuant to 28 U.S.C. § 1367(c)(3) and Fed. R. Civ. P. 12(b)(1). Those claims are hereby **DISMISSED**.

Plaintiffs are hereby granted fourteen (14) days to file an amended Complaint, if they so choose.

The clerk is directed to forward a copy of this Order and accompanying Memorandum Opinion to all counsel of record.

Entered this 15<sup>th</sup> day of June, 2015.

s/Jackson L. Kiser  
SENIOR UNITED STATES DISTRICT JUDGE